

**BUTTE-SILVER BOW LOCAL GOVERNMENT
STUDY COMMISSION**

**Minutes of the Meeting
December 8, 2005
Butte-Silver Bow Courthouse, First Floor Conference Room**

Meeting Date: December 8, 2005

Time: 5:40 p.m.

Place: Butte-Silver Bow Courthouse, First Floor Conference Room

Call to Order: Chairman Bob Worley brought the meeting to order at 5:40 p.m. and called roll with the following results:

Members Present: Ristene Hall, Wayne Harper, Shag Miller, Meg Sharp, Northey Tretheway, Cindi Shaw and Bob Worley

Excused Absences: Tony Bonney, Dave Palmer and Ron Rowling

Approval of Minutes: Minutes from December 1, 2005 will be approved at the next meeting on December 15, 2005.

Citizen's Comments: None

Comments from Ron Rowling: Absent

Items Not On Agenda: Shag Miller commented about the airport board in Missoula and it was discussed by Mike Kerns that through ordinance, the only people having the authority to discharge people in the county would be the Council of Commissioners. That could affect the language of the charter if that ordinance goes through prior to their charter proposal.

Bob Worley commented that ordinances are much easier to change than the charter is. If they could write the language to protect the county against those types of lawsuits, it would be his intention to have that language in the charter.

Ristene Hall spoke with a man who hires through a contracted service. Ristene called Express Personnel and spoke with Vikki. Vikki stated that a lot of major companies work through them for that exact same reason. Ristene stated that she was upset when she heard that a certain individual would be hired for life. Ristene feels that contributes to laziness. She is not comfortable when the county has to hire someone and he/she has to be there forever. Through a contracted service, Vikki spoke of it being a staffing service where they pay the wage, workman's compensation, work with the Union as far as giving the same benefits, and make sure they have the same insurance. The individual is contracted so when his/her service is no longer needed, the contract service provider is the one who will deal with the hiring and firing. Ristene stated that Express Personnel would be more than happy to speak with them if they have any questions on that topic.

Bob Worley asked Wayne if that was something the county could do. Wayne replied that it could be done and NorthWestern uses contract services a lot. Wayne stated that it is an apples and oranges thing in some situations. People at Express Personnel do not have the same benefits they have. Wayne stated it is well known that the largest labor lawsuit in the history of the U.S is when Microsoft express workers sued and said they were really employees and not express

workers. They won and each received millions of dollars worth of stock because they were not getting stock splits and they never received the same benefits. Wayne further stated that you could not keep an express worker in the same job for years and have him/her answer to the same boss instead of the contract service provider. Wayne stated there are indicia of employment as far as who has control over the work hours and the job, with Express Services there is some difference. Wayne commented from what they have heard from Bob McCarthy, there is not a large enough HR department to evaluate all of these things but would assume they have thought about it, especially in situations where they would need someone for just a short period of time.

Bob Worley commented “temp” is what they are really looking at. Bob asked when does someone no longer be a temp employee and become more of a permanent employee? Is it after 12 months, 2 years, five years, and so forth?

Northey Tretheway commented if you have a well-documented history of an employee’s poor performance, you have the right to do what you need to do. Northey was not sure if they should be getting into the minutia of that sort of issue in the charter. One problem of the charter is it is very detailed and complex. As soon as the law changes, the charter is out of date. The charter is supposed to look at the structure of government and they all like the flexibility that our charter, or consolidated form of government under the charter has given our government. When they start writing those things into the charter, it takes some of that flexibility away. When they have the county commissioners and the legal piece of government in place and the HR piece in place, they should be able to determine what puts the county at risk better than they could. Northey feels by them going too far into that, they would be defeating the purpose of what their function is.

Meg Sharp replied the charter should just be a good skeleton.

Northey Tretheway commented what they have to this point is a complicated charter. People wanted to make sure they all had jobs and maintained the responsibilities back in the 1970’s when consolidation occurred. That is still a holdover to this day. Northey Tretheway stated that he did not believe their role was to be enacting laws of the state. Form and structure is what their role should be. Northey Tretheway feels if they start stepping beyond that, they would be operating outside of their responsibilities. Northey thinks it is important that they do not try and limit what those, who are supposed to be the professionals in his/her area, can/cannot do other than checks and balances. He agrees with County Commissioners or someone else being involved in the hiring practices and not just leaning on one person’s authority so they could put all at risk. There needs to be a checks and balances in place.

Bob Worley made comment of the environmental policy they put in about a year ago. Bob Worley spoke about community enrichment and how they were going to leave that in the hands of government. Bob Worley and Dave Palmer really pushed to have a party in charge of that. Bob Worley discussed how government stated they could handle it and it started out good. Now it seems like they are getting more lax and worries they may get even more lax as time goes by. Bob Worley spoke how they are getting some fight from the government on a Superfund Coordinator position. Bob Worley stated he is not sure he wants to leave Superfund in the hands of government alone.

Northey Tretheway asked what role the Council of Commissioners play in that decision. Bob Worley replied if they do everything by ordinance, they are going to play a big role. Northey replied in this particular case with Superfund, if they wanted to do something like that, how could they do that? Bob Worley believed they would do it by ordinance.

Ristene Hall commented that they wanted to be an antonymous board and did not want to have to ask somebody. They want to make the money decisions themselves. Ristene feels their needs to be more people involved in the decision-making. Bob Worley felt it had to be the citizens of BSB and not just government employees.

Cindi Shaw spoke about taking the Animal Control Department out from Public Works and making it a separate entity with an elected official. Cindi stated it is a serious problem and being an appointed position as it is right now, they are in the Teamster's Union and you can't get them out with dynamite. Cindi was thinking on electing someone who had the heart to do that type of work. She would like to put that on the table as well. Ristene Hall replied someone who is accountable for the work and with a job description.

Northey Tretheway commented that other communities have something like that under Law Enforcement.

Shag Miller threw out for discussion to have the Council make it a separate department under ordinance with an elected official. Shag stated they could put the transition in the charter and that would attract a lot of interest and support of the charter as far as them getting passed or not.

Ristene Hall asked if there could be such a position as Animal Control Coordinator and a Community Enrichment Position? Ristene asked if they could combine them into the same job? Bob Worley stated they could discuss whatever they want as long as they can get it past the voters.

Wayne Harper stated we are in a community where people walk and need to carry sticks so there is something to hit dogs with. Bob Worley replied that it should not be that way. Bob Worley believes it is a budget problem and there needs to be more people put into animal control. Two guys cannot do the job and they have been around for a long enough time where they probably know every dog by first name and if they don't know the dog's name then they know the owner. That creates a problem.

Wayne Harper stated you need an accountable function and that is all you need. Wayne stated that two could take care of every animal in this community if they are held accountable.

Northey Tretheway commented that when Dave Hinch came and spoke to them, they were told that there was no policy to put dogs down. They will get a hold of the owner's friends who will go and pick up the dog. The owners will get the dog back and not have to pay a fine.

Bob Worley made a comment about the article Cindi Shaw brought referring to the dog problem in BSB one hundred years ago.

Shag Miller commented if they work to resolve the problem it would get additional support from the people who are interested in it which represents 25% of the public that had testified to it. Shag feels it will be a good campaign peg and it might help pass the charter proposal.

Northey Tretheway replied that he needs to carry a stick too and if it is such a big issue why doesn't the council do something about it? It is a big enough issue to people in this room but not big enough to keep council members elected because they are not doing anything about it.

Ristene Hall replied that they tried really hard and brought to light what was going on about the existing facility. Ristene stated that they got a lot done. Ristene stated when they went and

toured the facility; animal control stated they put 50 dogs down. Ristene stated there were dead dogs placed on top of the freezer and the freezer was full of dead dogs. It was not a good situation. Ristene stated that it is getting better but is not perfect.

Ristene Hall stated that they would call the dogcatchers and every month they would have to give a report of what they did. Ristene Hall believed they would pick up around 42 dogs a month. Ristene Hall commented that one problem they had was the job for life attitude. Ristene Hall commented that the Council of Commissioners really did try. Ristene believed having an Animal Control Coordinator, someone who is accountable to the people that the people vote or not vote in every four years, if the job performance was not better.

Wayne commented it would be like the discussion they had about the Sheriff being elected every four years. If they don't like the animal control person, who is going to run against him/her? Who has the credentials, who has the name, is he/she going to be re-elected, will he/she be good or bad, is he/she going to do their job? Wayne was not sure if electing would be the right thing to do. Wayne commented if they become a department head, he/she is going to want to be teamsters that make more money. Wayne asked is the animal control department head the same as the department head for Budget and Finance? Wayne asked what do you do with the two employees that are allegedly doing their job? Wayne had to assume that they have done their job and have never been reprimanded. Wayne asked are you going to now promote one of them, are going to have their own department? You have teamsters in the management ranks; there are a lot of issues.

Cindi Shaw discussed the possibility of a bounty hunter. Someone who would get something in return for each dog captured. Cindi commented that Tony Bonney discussed when he was going home, he saw a pack of dogs on Second St. He saw Dave Hinch just look at the dogs and drive by.

Meg Sharp asked if the new position for the Animal Shelter was going to make a difference. Meg commented that they hired a woman from Dillon. Bob Worley replied that everyone hopes that will make a difference but he was not sure if she would have anything over animal control. Bob Worley believed she would be taking care of dogs, cats and other animals that are brought to the shelter. He did not believe she would have anything to do with animal control or enforcement.

Ristene Hall suggested an Animal Control Coordinator, with a job description, hired through a contracted service.

Meg Sharp replied she liked the idea of a bounty hunter.

Wayne Harper mentioned the parking lot campus at University of Montana and put out a bounty. He knows kids that were making \$2000-\$3000 a month in the 1970's. They were given ticket books. You could write a ticket to anyone on campus. They would take a Polaroid picture and show the violation. Wayne stated to this day nobody violates the parking at the University of Montana. Wayne stated that they would put a bounty on it and the kids got 50% percent of the money that was brought in. Wayne stated that they quadrupled the revenue for the two semesters they had. It then dropped off because nobody broke the rules. Wayne stated if you tell someone they are going to get \$20-\$30 per dog, he believes they would get more than 42 in a month.

Ristene Hall replied if you said to someone, if your dog is in my yard, I am going to take a picture of it and you are going to pay the fine. It may not happen.

Wayne Harper again stated they need to make someone accountable for it. He mentioned how Billings does it and in Missoula the person has to pay a fine.

Bob Worley mentioned the budgets that other communities have for animal control.

Cindi Shaw mentioned it is a \$20 fine for a menacing dog that means it does not even have to bite, snarl or lunge at you. Bob Worley asked, the fine is there but how many of them get paid? Cindi Shaw replied that it was her understanding the new judge was cracking down on that. Cindi stated it was there responsibility as a Study Commission to present something to the public about animal control. It is the number one complaint.

Shag Miller commented that he was looking through the charter at Section 7.05 and read from it. Shag Miller suggested that they might want to put the Council of Commissioners shall establish by ordinance an Animal Control system or something along the line of that.

Cindi Shaw wanted to know how it would be followed through; who's to say it is going to happen at a certain time?

Shag Miller replied the person who has a complaint could go to the Council of Commissioners and say you shall set up...because if they can set up such a department that works so well as Finance and Budget, they should be able to set up an Animal Control Department.

Ristene Hall replied that she believed there is ordinances and they do go to the council and complain but it does not get done. Ristene stated what they need is one person accountable. Something where a person can go to him/her and ask why something was not done. Ristene stated it would have to be someone the county could depend on to help with the problem. They need to earn it if they want it to be a job for life.

Bob Worley mentioned how they discussed writing something where those jobs and the successes on the goals that were set would be reviewed on an annual basis. Bob Worley was not sure if it would be Paul's job to review the performance of the Animal Control Coordinator and will listen to whatever is out there as far as what they should do with animal control.

Ristene Hall felt to say you have to catch so many dogs per month is a negative comment; she would like to see fewer complaints.

Bob Worley mentioned when they spoke to the Health Department and stated that they had 50-100 cases and now they have 225. Bob explained to them they want to see fewer cases, not more.

Ristene Hall commented that they would get negative feedback from the public if they try to resolve animal control by killing animals. Ristene Hall stated they need to put it in a positive light to the public that they are going to hire a person to coordinate the dog population, work with owners and get fewer complaints from the community.

Cindi Shaw agreed with Ristene. Cindi mentioned fines and how people listen to their pocket book. You don't want to attack or kill the dog but fines usually make a difference. We need someone who is going to follow through on the fines and the judges are hopefully doing a better job of that.

Ristene Hall replied in regard to fines, what they did with the Community Enrichment Program and it could be done with the Animal Control Program is give the owner a fine, they ignore it,

you give them the fine again, they ignore it, you give them a court date, they ignore it, with the fines on the Community Enrichment program, it is put on the person's property taxes. If the person were renting a place, then they would have to deal with their landlord.

Northey Tretheway replied that was an interesting comment. Northey asked if property taxes are under the control of the state?

Bob Worley asked Cindi Shaw and Ristene Hall to brainstorm about dogs and come up with an idea to bring back to the commission.

Shag Miller volunteered to get information from Helena, Great Falls and Missoula.

Bob Worley moved forward with the existing charter, Article V, Section V.

Bob Worley spoke with Dick Tamblyn of Newland and Company and he believed they could get a good internal auditor for 40 to 50K. Bob Worley did include that the internal auditor be a CPA. Bob mentioned how the auditor would need a couple staff members below him/her. Bob Worley mentioned if they had someone who is better qualified it could allow government to operate more efficiently and effectively. Bob Worley stated that he does not have anything against Danette Harrington but feels there are a lot of things that are not being done that would be if they had an auditor looking at finances and how departments are and should operate.

Ristene Hall stated that a lot of her duties are not being done because they have been removed from her job. Ristene commented it would be a good thing to reinstate those duties and the deputy. Ristene Hall stated that the city is into improvements but are not into eliminating anyone's job.

Cindi Shaw asked when they removed some of her duties and the deputy, were they refining and consolidating departments?

Bob Worley believed some of those duties went to Finance and Budget. Bob did not know how things an Auditor is supposed to do could go into Finance and Budget.

Northey Tretheway replied the auditor's functions were removed partly because sometimes an auditor acts in adverse ways and if someone is doing something or they are investigating something...

Cindi Shaw asked if an Auditor had to have some Accounting background or CPA. Cindi asked if Danette Harrington had that background.

Northey Tretheway commented if you have an elected official, he was not sure you could put a requirement of qualifications on him/her.

Bob Worley replied they would have to go back to the state in order to put a requirement on the Auditor. Bob Worley again replied that he is not picking on Danette Harrington; he is just trying to write something that is better for BSB than what exists right now. Bob Worley stated he does not know what Danette's terms are right now in regard to retiring but if they were to present and the voters of BSB accepted it, it would not go into affect until after 2008. It would go along with her term.

Wayne Harper mentioned the legislature could say Auditors have to be CPAs so could this charter and/or the Council of Commissioners. State Law does not say...it says which ones have to have credentials. They could make them have credentials also.

Bob Worley commented that things in Article V are going to be state law and things they cannot change.

Bob Worley moved forward with Section 5.02 (a 1-4, b and c 1-2)

Ristene Hall questioned 1 and 2, which read, "shall be a qualified elector and shall have all education and training". Is there already something written for Auditor's and the rest of them? Wayne Harper replied state law's District Court Judges, County Attorneys and Superintendent's of Schools are the only three. Wayne Harper suggested that it could read "as required by state law and/or local ordinance or by charter". Bob Worley confirmed adding after education (Section 5.2), the proposed language change to read, "required by state law, local ordinance and this charter for every prospective office".

Bob Worley continued with reviewing Section 5.02, Subsection (3 a-f)

Bob Worley reviewed Section 5.03-Appointment of Deputies

Bob Worley was not sure if that is where they should change the charter to allow for the people who work in specific departments to work under department heads. Northey Tretheway asked about the language in that section which read, "each elected officer entitled by ordinance". Northey stated the charter is not mandating that they have a deputy but an ordinance designates which elected offices could have deputies? Northey commented that he is not sure why that needs to be changed.

Meg Sharp commented maybe the whole thing could be struck.

Wayne Harper commented the issue he has is in Section 5.03 and he knows Bob McCarthy has an issue with it, as written it states, "If there is an ordinance" that says you will have a deputy/s. Wayne stated you do not have an option. It states, "you shall appoint". Wayne suggested it state "they".

Ristene Hall asked if Bob McCarthy was more concerned about who actually elected them? Ristene spoke of Bob McCarthy's deputies being appointed by the Chief Executive and not him.

Bob Worley was not sure if that is where it should be inserted, each member working for a particular department answers to that department head.

Shag Miller replied if you really read the section, the language is not that bad. Shag read from the section, "Each elected officer entitled by ordinance to appoint a deputy/s shall appoint them." Shag stated if the ordinance states the Treasurer, for example, shall have "x" number of deputies then that elected officer shall appoint the deputies.

Bob Worley replied that he believed there were three tiers of people within these particular departments for example, tier one would be the department head, tier two would be an appointed deputy, tier three would be the clerks or the people that work underneath.

Ristene Hall commented that it almost sounds like it is the ordinance that needs to be changed but not the language in the charter.

Northey Tretheway asked what use is it providing and suggested they strike that language from charter since it is already in ordinance and in the power of the commissioners.

End of tape one, side one.

Wayne Harper commented that the people within these particular departments are working for Paul Babb and prior to that they were working for Judy Jacobsen. Wayne stated as an example, the clerical staff working for Bob McCarthy in his office are not doing their job, Paul Babb is not going to have any idea on their work performance, it is going to be the department head.

Bob Worley replied it is Bob McCarthy's responsibility to go to Paul Babb and report to him about the individual's work performance.

Shag Miller suggested waiting for Bob McCarthy to be present to address that issue.

Northey Tretheway replied if they strike it and then address the issue of clerks and those operating under the elected official and department head. Northey asked is there something in the charter that causes the problem Bob McCarthy is talking about?

Wayne Harper replied in Section 4.02 subsection (d).

Ristene Hall asked if the Chief Executive hires the department head, then the department heads hire their deputies and clerks? Wayne Harper replied they appoint them and it appears with the clerks, the secretarial people in Bob's office. Wayne spoke of a time when they had a grievance, Judy Jacobsen had to decide if Bob McCarthy was right or not. Judy Jacobsen was in office for three weeks and the person working for Bob McCarthy had been with him for 13 years. Judy all of sudden had to decide if this person did his/her job or not. Wayne assumed 90% of the time the Chief Executive is going to ask the elected official or department head for his/her opinion but at the same time the individual that is being questioned about his/her work performance could rebut and say that Bob McCarthy is not his/her boss.

Northey Tretheway read from the charter, "the Chief Executive shall have the power to hire (and what used to say fire) all other employees at local government with the exception of those employees hired by other elected officers and those who have gained tenure and those who have gained tenure as defined by statute or ordinance. Northey stated that there is an exception stated in there.

Bob Worley announced that they would discuss this issue further with Bob McCarthy.

Cindi Shaw brought up the issue of the person working under Mary McMahon instead of Rob Macioroski. Bob Worley mentioned at last night's council meeting, Rob Macioroski appeared before the council and he is adamant about Land Records being a separate department. Bob Worley mentioned that BSB had packets for bid proposals for land that is for sale. Bob Worley mentioned that Pat Callahan is trying to take over the tasks of that from Land Records. Rob asked that personnel revisit that issue and keep those particular functions within the Land Records Office rather than under the Treasure's Office. Mary McMahon is fighting against Land Records being a separate department.

Cindi Shaw asked where they were in regard to the Land Records issue. Bob Worley stated it would be coming up under Section 7.04-Land Records System.

Bob Worley reviewed Section 5.04-Duties and Powers of Elected Officers

Bob Worley commented this might be the section where they can address the issue of the deputies.

Northey Tretheway asked about employees of or elected officials of BSB circumventing the advice of the County Attorney. Northey spoke of an experience he encountered where a person is acting on behalf of the public in regard to certain issues and was going outside government to get their own personnel legal advice (not Paul Babb) when in fact that legal advice could have and should have come from the County Attorney. Bob Worley asked if that was insubordination and was it enough to fire somebody? Northey asked if the County Attorney says this is how something should be done and legally it is right to do, this person who sought outside legal advice states that their attorney told them could not do that, where does liability end at? If the County Attorney says, yes, you can do something, are any of the elected officials liable for not listening to the County Attorney and instead taking advice from outside legal council?

Wayne Harper stated MMIA appointed an attorney for Paul Babb and the county. Personally they should have asked Paul Babb if he followed Section 5.04 and what advice did he get from Bob McCarthy. Paul should have responded that he got advice, wanted a second opinion and got advice from an outside attorney. They should have told Paul that he owes the money, which he would not have owed. The county is debating on getting their money back from MMIA because there should have been conflict of interest from day one. The Charter states, and there is no ordinance that overrides it, if you are an elected official, your attorney is the County Attorney.

Ristene Hall commented if you ever sat for four years in the council chambers with Bob McCarthy and Jim Johnston and you had an issue, you would not go to Bob McCarthy. You would have to go to an outside attorney. Wayne Harper replied that you would be breaking the law. Ristene replied that they were very close and there has to be exceptions to the rule.

Cindi Shaw perceived the word Chief Legal Officer to mean he is number one, but it does not mean you cannot get a second opinion. Cindi Shaw asked Wayne Harper if he/she consulted with the County Attorney and wanted further advice, could you not seek other legal advice? Wayne Harper replied it states the County Attorney shall be...Cindi replied "shall be the chief" but it does not state "shall be the "only" or "the legal officer" it states, "the Chief" which is an adjective calling it something, meaning number one. Ristene Hall asked if there is another section that states you could have outside legal representation.

Cindi Shaw asked Wayne how you would define "Chief". Wayne replied it states the County Attorney shall be the Chief Legal Officer of the local government.

Bob Worley asked Wayne if there would be a difference if it stated "will" instead of "shall"? Wayne replied it would convey the same meaning.

Northey Tretheway asked if someone goes outside the County Attorney to seek legal advice and acts on that outside advice, what kind of liabilities exist for the county? Northey Tretheway stated he would prefer if this is the Chief Legal Council of the county, they get that opinion of record and act on that. Not allow someone to act on the advice of outside council. Who is going to be liable for it? BSB again? Northey stated that they elect a person to be Chief Legal Council of BSB and if that person made a wrong decision then BSB would be liable. Northey asked who is accountable outside the county for people who make decisions that are enacted on by public servants within BSB?

Ristene Hall suggested in that particular case Paul should have gone to the County Attorney, but our County Attorney should have said that because he is a friend with this person then I need to step aside and you go outside...

Northey Tretheway agreed and disagreed. Northey commented that the County Attorney is probably a friend with everyone in the courthouse and within government.

Wayne Harper commented if Bob McCarthy or any attorney felt they had a conflict of interest that would impinge their ability to make a decision for what they are elected or hired to do, they would excuse themselves. Wayne did not think that was the situation since Bob McCarthy wrote a letter stating he could not do that. Technically at the time Bob McCarthy did not know who in the county Paul was going to fire and wrote the letter generically. If there was going to be a conflict of interest, there is a way around it and County Attorneys have done it all the time. Wayne Harper did not believe anyone was saying that they shouldn't have a paid County Attorney's Office that does not serve the courthouse. Wayne stated they would be crazy if they were going to start paying outside attorneys by the hour to do work for the county.

Northey Tretheway asked if there was a need to change it to prevent what is evidently occurring? Wayne Harper replied the answer is it is a defense. It is who's liable? Paul should have been liable but for him to be liable, the Council of Commissioners on day one would have to say, you did this outside the scope of the charter, of your job, or whatever they wanted to say their defense is. For whatever reason, the council did not bring any up.

Northey Tretheway asked it seems to happen frequently as far as BSB is getting sued and BSB having to fork out the money, you ask should the Council of Commissioner have been involved? For example, Paul Babb's decision and was able to make a unilateral decision, which will weigh on our shoulders for a while. The Council approved the replacement of people that were let go by Paul Babb. Northey believes that bought the county in. Northey asked, because the County Attorney knows the law, should it be that in order for decisions of legal nature to be made, the Chief Executive and the Council of Commissioners have to work in concert with the County Attorney in order to agree on decisions where the county is liable? Northey asked what kind of buy-in do we need to have to make this fully enforceable enough that BSB and taxpayers are not holding the bag every five years? Northey stated it seems like every five years BSB was getting sued and for large amounts of money. Northey believed there had to be something that ties this back to us. We need to act on the decisions that our legal advisor makes and not to someone outside that does not have the same vested interest as we all do. Wayne replied as Chief Executive, right, wrong or indifferent, Paul's decision was made. Wayne stated that he gives great legal advice and that is what it is. It is legal advice that a person can use or not use. Paul had the legal advice to make the decision he made and chose not to use it which opened the county to liability. He was elected to be the head risk management for BSB. He made a decision risk-wise that could be done. Wayne states as they go through the charter, you read the sentence "serves at the pleasure" then it says, "Unless they were appointed by an elected official. Wayne stated that both people, he fired, were appointed by an elected official. Wayne stated if an elected official doesn't follow the language or takes a risk that they did not do correctly. It is up to the Council of Commissioners and the county to confront him/her and say that is wrong. They then need to look for ways of doing it the right way.

Northey Tretheway emphasized that there needs to be a check and balance whether it is the County Attorney or Council of Commissioners. There has to be something that prevents one person from putting all of us at risk. Northey stated in reality justice should say that one person should pay for it out of his pocket. However, in most cases the pockets are not big enough so

they go to the ones that have the biggest pockets and it is going to be BSB every single time until there is a check and balance in place.

Wayne Harper gave an analogy, which would say why the frustration is insurmountable. You are in your back yard and you rented a backhoe for \$12.00 to put in your own road to your cabin. You happen to be an attorney that has defended 50 dig-in cases. Someone asks if you called before digging. You reply “no” and you are with your grandfather in saying it’s easier to get forgiveness than get permission because you didn’t have a permit to put a road in anyway. If you dig into a NorthWestern Energy gas line that is in your backyard and it blows up your neighbor’s house, they are not going to sue you; they are going to sue NorthWestern. NorthWestern has the bigger pockets. There are state laws that utilities got passed stating if you do not call before you dig, you are liable.

Northey Tretheway again stated that there has to be a way to prevent one person from being able to put the whole county at risk. Northey stated they need something that stops or prevents that action from taking effect. Northey stated that is what the people of BSB want. They do not want to be paying out a million dollars every five years.

Bob Worley mentioned at last night’s council meeting, there was discussion of a bridge that BSB owns. It is located in Washington and was purchased by Judy Jacobsen. Dori made a presentation last night for this bridge and from what he can tell it is somewhere in the Silver Bow area. The bridge that was put out there was temporary and used for some purpose when there was construction of a road. Now, the bridge is no longer good. They had a good buy of a bridge in Washington. Now BSB owns a bridge in Washington, they are wondering how to get it here and who is going to pay to install it. Bob stated these are some of the things where government is stepping outside their bounds and did it without the approval of the Council of Commissioners. Northey replied that is probably why commission form of government is becoming more prevalent so there is not one person doing that.

Ristene Hall commented she is not sure how to implement where every decision, every dollar spent of people’s money needs to go before the council. Ristene stated when it goes before the council it gives the people a chance to know that it is happening and say yes or no. It gives the opportunity to prevent these kinds of things from this happening.

Bob Worley replied accountability, checks and balances.

Wayne Harper commented that Bob McCarthy warned that Paul Babb’s actions could bring about liability.

Wayne Harper discussed if you are going to spend over “x” amount of dollars, you would need to get approval from council. Wayne commented some of the issues with antonymous boards might say here is your budget and spend it as you wish.

Northey Tretheway commented if the Chief Executive wants to hire somebody or build up staff, it has to go in the budget and that is how the council approves or disapproves it. Northey Tretheway stated this is a key issue that the public is concerned about. It has to be fixed. By putting a check and balance in place, it will show that they have at least addressed it. Bob Worley thought it was something they might want to discuss with Bob McCarthy.

Bob Worley questioned the simplified version of the charter and wondered if it would provide enough protection for BSB and include prevention measures needed to avoid further lawsuits.

Northey Tretheway replied they could use a generalized charter but be specific where they need to be.

Ristene Hall asked if they could put in the charter if a Chief Executive caused a lawsuit against the county, there are only "x" amount of dollars that could be contributed.

Wayne Harper replied that limitation caps are prohibited. Wayne Harper commented that there are people that know more than they on how to run this government. Wayne mentioned the people in Billings who lost an employment lawsuit costing around 750,000. Wayne stated that Billings pays a higher premium and their insurance covers employee lawsuits. They will only need to pay for the \$250,000 deductible; insurance is paying the other \$500,000.00.

Northey Tretheway commented given the issues that Bob McCarthy has mentioned, BSB is one of the more egregious communities in terms of HR grievances. Northey stated that there might be another one around the corner. Northey did not know why BSB did not have a better insurance policy in place.

They discussed having Bob McCarthy present for the whole Section of 5.04

Chairman Bob Worley reviewed Section 5.05, subsections (a-b,1)

Adjournment: Wayne Harper moved for adjournment and Ristene Hall seconded. Meeting adjourned at 7:25pm.

Date of Next Meeting: December 15, 2005.